

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LINDA MERRITT (aka LYN	§
MERRITT),	§ No. 473, 2010
	§
Defendant Below-	§
Appellant,	§ Court Below-Court of Chancery
	§ of the State of Delaware
v.	§ C.A. No. 3989
	§
R&R CAPITAL, LLC, a New York	§
Limited Liability Company, and FTP	§
CAPITAL, LLC, a New York	§
Limited Liability Company,	§
	§
Plaintiffs Below-	§
Appellees	§
	§
and	§
	§
BUCK & DOE RUN VALLEY	§
FARMS, LLC et al.,	§
	§
Nominal Defendants-	§
Appellees.	§

Submitted: September 13, 2010

Decided: September 22, 2010

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

ORDER

This 22nd day of September 2010, it appears to the Court that:

(1) On July 28, 2010, this Court received the appellant's notice of appeal from the Court of Chancery's June 28, 2010 order holding the appellant in contempt. On August 2, 2010, the Clerk issued a notice pursuant to Supreme

Court Rule 29(b) directing the appellant to show cause why her appeal should not be dismissed for her failure to comply with Supreme Court Rule 42 when taking an appeal from an apparent interlocutory order.

(2) The appellant filed a response to the notice to show cause on September 2, 2010. In her response, the appellant states that the Court of Chancery's June 28, 2010 order is a final order and, therefore, appealable. On September 13, 2010, the independent receiver submitted a reply to the appellant's response. In his reply, the independent receiver states that the appeal is interlocutory because there are ongoing proceedings in the Court of Chancery case. Specifically, there are matters currently pending involving the process of winding up the affairs of the nominal defendants, after which the independent receiver may apply to the Court of Chancery for an order of dismissal.

(3) Absent compliance with Rule 42, the jurisdiction of this Court is limited to the review of final orders of trial courts.¹ An order is deemed to be final if the trial court has clearly declared its intention that the order be the court's "final act" in the case.²

(4) There are matters still pending before the Court of Chancery in this case, as reflected in the court docket below. As such, the Court of Chancery's June 28, 2010 order is interlocutory and any appeal from that order is premature absent

¹ *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

² *J.I. Kislak Mortgage Corp. v. William Matthews, Builder, Inc.*, 303 A.2d 648, 650 (Del. 1973).

compliance with the requirements for taking an interlocutory appeal in accordance with Rule 42. Because the appellant has not attempted to comply with the requirements of Rule 42, we conclude that the appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED that the within appeal is DISMISSED.

BY THE COURT:

/s/Henry duPont Ridgely
Justice